

lasting democratic independence. Nevertheless, we still have work to do.

The Senate Select Committee on Intelligence report on Iraq's weapons of mass destruction clearly identified what we have all known for some time, our intelligence has not performed in as desirable a way as we would like and in some cases has raised some issues about some of the decisions we had to make in this Congress.

As a former member of the Senate Intelligence Committee, I say to my colleagues that few employees in the Federal Government are as dedicated as those who work for our intelligence agencies. They are hard-working individuals who believe their work is critical to our Nation's national security, and they provide us good information. As policymakers, we also have to recognize the information they give us is not always absolute. A lot of time it is a little bit of information here, a little bit of information there, and we have to put it together and say this is a likely event that is going to happen or this is likely what is happening. It is not absolute in many regards, and we have to treat it that way.

I think that is the way the President treated it, and I think that is the way the Congress has looked at much of the information that we received right after 9/11 and how terrorism is affecting us. That is why it was so frustrating to learn our intelligence agencies did not connect many of the dots in regard to September 11 and again failed to provide reliable information on Iraq's weapons of mass destruction programs.

We clearly have a considerable amount of work to do. As the Senate Intelligence Committee recommended, we need to improve the process by which analysts, collectors, and managers fuse intelligence and produce judgments for policymakers, but that is not new. We have been facing this problem for some time. I am glad we are taking it more seriously. We need to greatly enhance almost every aspect of the intelligence community's human intelligence efforts. We need to address the tendency to build upon the judgments of previous assessments without including the uncertainties in those assessments.

I will note the Senate Intelligence Committee's report did conclude that the intelligence community's judgments regarding Saddam Hussein's government's link to terrorist organizations were reasonable. Equally important was the Senate Intelligence Committee's conclusion that the exaggeration of the intelligence on Iraq's weapons of mass destruction capabilities was not the result of political pressure.

As we prepare for the 9/11 Commission's report, I think it is appropriate that we thank the people who served on the Commission for their service to this country. Their service will go a long way to helping our Nation prevent future attacks.

I yield the floor.

The PRESIDING OFFICER (Mr. TALBENT). Who seeks recognition?

Mr. MCCONNELL. Mr. President, I rise to make remarks today on two important subjects with which we are currently dealing in the Congress.

The PRESIDING OFFICER. The Senator from Kentucky.

#### SETTING THE RECORD STRAIGHT

Mr. MCCONNELL. Mr. President, "Did the Bush administration manipulate intelligence about Saddam Hussein's weapons program to justify an invasion of Iraq?" This is the central question posed by discredited Ambassador Joe Wilson in his July 6, 2003, op-ed published by the New York Times.

Wilson alleged the answer to the question was "yes", and a political firestorm ensued. Indeed, the year-long furor over the infamous 16 words stemmed from Mr. Wilson's disproved claims.

Many of the President's fiercest critics have since argued the Bush administration misled the country into war, a truly incendiary charge.

Lord Butler's comprehensive report includes the real 16-word statement we should focus on. Here is what he had to say:

We conclude that the statement in President Bush's State of the Union address . . . is well founded.

It is well founded. Yet the New York Times threw its hat into the ring early and ran an editorial on July 12, 2003 amplifying Wilson's irresponsible claim and flaming the fires of this pseudo-scandal. This is what they had to say:

Now the American people need to know how the accusation got into the speech in the first place, and whether it was put there with an intent to deceive the nation. The White House has a lot of explaining to do.

Will the New York Times, which printed 70 stories that repeated Joe Wilson's claims, now retract this editorial? Will it acknowledge on the editorial page the truth about Joe Wilson?

Rather than displaying caution and restraint, too many American politicians raced, like the New York Times, to echo this outrageous allegation.

Early into the fray was the senior Senator from North Carolina. On July 22, 2003, Fox News played a clip from one of Senator EDWARDS' rallies in which he repeats Wilson's attacks on the President's honesty. Senator EDWARDS claims:

Nothing is more important than the credibility of the president of the United States and the words that come out of his mouth at the State of the Union are, in fact, the responsibility of the president.

According to the correspondent at the rally:

Edwards blasted the president's 16-word State of the Union sentence on British intelligence information that Iraq sought nuclear weapons material from Africa.

Now a candidate for the Vice Presidency, Senator EDWARDS will have many media opportunities to set the

record straight about his view of the President's State of the Union speech. In the name of fairness, I sure hope he will.

Not to be outdone, the Senior Senator from Massachusetts, Senator KENNEDY, delivered an attack on the Bush administration this January. Senator KENNEDY repeated Wilson's distortions, and claimed:

The gross abuse of intelligence was on full display in the president's State of the Union address last January, when he spoke the now infamous 16 words. . . . And as we all know now, that allegation was false. . . . President Bush and his advisers should have presented their case honestly.

When will Senator KENNEDY acknowledge that the President's claim was "well founded?" The junior Senator from Massachusetts has also accused the President of misleading the country. An Associated Press report from 2003 includes an exchange between Senator KERRY and a woman on the campaign trail. Here is how it went.

When a woman asked whether U.S. intelligence on Iraq was doctored, Kerry replies that Americans were "clearly misled" on two specific pieces of intelligence. "I will not let him off the hook throughout this campaign with respect to America's credibility . . .

That is the junior Senator from Massachusetts. Let me quote another AP report about Senator KERRY from last summer:

Kerry said Bush made his case for war based on U.S. intelligence that now appear to be wrong—that Iraq sought nuclear material from Africa.

Now that Joe Wilson's claims have been completely discredited, the junior Senator from Massachusetts has a chance to set the record straight. But will he?

I mentioned yesterday the distinguished Minority Leader had repeated Joe Wilson's discredited claims on the Senate Floor. Just last month, Senator DASCHLE said:

Sunlight, it's been said, is the best disinfectant. But for too long, the administration has been able to keep Congress and the American people in the dark . . . serious matters, such as the manipulation of intelligence about Iraq, have received only fitful attention.

The bipartisan Senate Intelligence Report reached the following conclusions that directly refute the serious charges made by the President's critics:

Conclusion 83. The Committee did not find any evidence that Administration officials attempted to coerce, influence, or pressure analysts to change their judgments related to Iraq's weapons of mass destruction capabilities.

Conclusion 84. The Committee found no evidence that the Vice President's visits to the CIA were attempts to pressure analysts, were perceived as intended to pressure analysts by those who participated in the briefings on Iraq's WMD programs, or did pressure analysts to change their assessments.

Let us not allow honesty to become a casualty of the campaign season.

My colleagues now have an opportunity—and I am sure they will take

it—to set the record straight about their support of Mr. Wilson's outrageous claims. In the name of fairness, will they?

#### NOMINATIONS TO THE SIXTH CIRCUIT COURT

Mr. McCONNELL. Mr. President, on another matter, we will be voting later this morning on the nominations of Henry Saad, David McKeague, and Richard Griffin to the Sixth Circuit Court of Appeals.

As this chart shows, the Sixth Circuit covers Michigan, Ohio, Kentucky, and Tennessee.

For the last 2 years, the Sixth Circuit has been trying to function with 25 percent of its seats empty. That vacancy rate is, as it has been, the highest vacancy rate in the Nation. Not surprisingly, the Judicial Conference has declared all four of these vacant seats to be "judicial emergencies."

For the last 3 years, I have taken to the floor to decry the crushing burden under which the Sixth Circuit operates. The years change but one seemingly immutable fact remains: The Sixth Circuit remains the slowest circuit in the Nation by far. According to the Administrative Office of the Courts, last year the Sixth Circuit was a full 60-percent slower than the national average. According to the AOC, the national average for disposing of an appeal is 10½ months, but in the Sixth Circuit it takes almost 17 months to decide an appeal. That means in another circuit, if you file your appeal at the beginning of the year, you get your decision around Halloween. But in the Sixth Circuit, if you file your appeal at the same time, you get your decision after the following Memorial Day, over a half a year later. If you can believe it, each year the disparity between the Sixth Circuit and its sister circuits gets worse.

In 2001 and 2002, the Sixth Circuit was the slowest circuit in the country, just like last year. In those years, the average time for decision was 15.3 and 16 months, respectively, but last year the delay jumped up to almost 17 months. So clearly my constituents and the other residents of the circuit are suffering more and more as the years go by.

What is the reason for this sorry state of affairs? An intra-delegation dispute from years ago when nearly a quarter of the current Senate wasn't even here. Nor, I might add, was the current President around for that dispute either. He, too, has nothing to do with it.

This dispute drags on year after year. As I understand it, although only two seats were involved in this dispute, six nominees, including four circuit nominees, continue to be bottled up.

Frankly, I don't know whose fault it was it has been so long. But I do know that neither the 4 million people in Kentucky, nor the 6 million people in Tennessee, nor the 11 million people in

Ohio—nor their Senators—were any part of it.

They are all suffering for it, though, as are the 10 million people from Michigan.

The Michigan legislature has in fact passed a resolution calling on us, the U.S. Senate, to confirm these nominees. I ask consent that a copy of this resolution from the Michigan State Senate be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SENATE RESOLUTION NO. 127

Whereas, The Senate of the United States is perpetuating a grave injustice and endangering the well-being of countless Americans, putting our system of justice in jeopardy in Michigan and the states of the Sixth Circuit of the federal court system; and

Whereas, The Senate of the United States is allowing the continued, intentional obstruction of the judicial nominations of four fine Michigan jurists: Judges Henry W. Saad, Susan B. Neilson, David W. McKeague, and Richard A. Griffin, all nominated by the President of the United States to serve on the United States 6th Circuit Court of Appeals; and

Whereas, This obstruction is not only harming the lives and careers of good, qualified judicial nominees, but it is also prolonging a dire emergency in the administration of justice. This emergency has brought home to numerous Americans the truth of the phrase "justice delayed is justice denied"; and

Whereas, Both of Michigan's Senators continue to block the Judiciary Committee of the United States Senate from holding hearings regarding these nominees. This refusal to allow the United States Senate to complete its constitutional duty of advice and consent is denying the nominees the opportunity to address any honest objections to their records or qualifications. It is also denying other Senators the right to air the relevant issues and vote according to their consciences. This is taking place during an emergency in the United States 6th Circuit Court of Appeals with the backlog of cases; and

Whereas, We join with the members of Michigan's congressional delegation who wrote Chairman Orrin Hatch on February 26, 2003, to express their concern that "if the President's nominations are permitted to be held hostage, for reasons not personal to any nominee, then these judicial seats traditionally held by judges representing the citizens of Michigan may be filled with nominees from other states within the Sixth Circuit. This would be an injustice to the many citizens who support these judges and who have given much to their professions and government in Michigan"; and

Whereas, We are concerned about the Sixth Circuit as a whole, a circuit court understaffed, with 4 of its 16 seats vacant, knowing that the Sixth Circuit ranks next to last out of the 12 circuit courts in the time it takes to complete its cases. Since 1996, each active judge has had to increase his or her number of decisions by 46%—more than three times the national average. In the recent past, the Sixth Circuit has taken as long as, 15.3 months to reach a final disposition of an appeal. With the national average at only 10.9 months, this means the Sixth Circuit takes over 40% longer than the national average to process a case; and

Whereas, The last time the Sixth Circuit was this understaffed, former Chief Judge Gilbert S. Merritt said that it was handling

"a caseload that is excessive by any standard." Judge Merritt also wrote that the court was "rapidly deteriorating, understaffed and unable to properly carry out their responsibilities"; and

Whereas, Decisions from the Sixth Circuit are slower in coming, based on less careful deliberation, and, as a result, are less likely to be just and predictable. The effects on our people, our society, and our economy are far-reaching, including transaction costs. Litigation increases as people strive to continue doing business when the lines of swift justice and clear precedent are being blurred; and

Whereas, President Bush has done his part to alleviate this judicial crisis. Over the past two years, he has nominated eight qualified people to the Sixth Circuit Court of Appeals, with three of them designated to address judicial emergencies. Four of these nominees continue to languish without hearings because of the obstruction of the two Michigan Senators; Now therefore, be it

*Resolved by the Senate*, That we memorialize the United States Senate and Michigan's United States Senators to act to continue the confirmation hearings and to have a vote by the full Senate on the Michigan nominees to the United States 6th Circuit Court of Appeals; and be it further

*Resolved*, That copies of this resolution be transmitted to Michigan's United States Senators and to the President of the United States Senate.

Mr. McCONNELL. Mr. President, that is 31 million people, who continue to suffer because our colleagues on the other side refuse to confirm any of these four Michigan nominees to the Sixth Circuit.

Indeed, two of the seats we are talking about were not even involved in this dispute. President Clinton never nominated anyone to the seat to which Henry Saad was nominated. That vacancy arose on January 1, 2000.

And the seat to which David McKeague was nominated did not even become vacant until the current Bush administration on August 15, 2001.

So what the Senators from Michigan seek to do is hold up one-fourth of an entire circuit because of a past intra-delegation dispute about two of these six seats, the genesis of which occurred many years ago.

As to disputes on judicial nominees, the Senators from Michigan do not have a monopoly on disappointment. There are several Republican nominees who were nominated by George H.W. Bush, who waited a year or more for a hearing, and who never got one. I note Sixth Circuit nominee John Smietanka, D.C. Circuit nominee John Roberts and Fourth Circuit nominee Terry Boyle, just to name a few.

The remedy for disappointment is not to take out your frustration on the populace of an entire circuit. Nor is it to demand that a President cede his constitutional power to another branch. It is to do what this President has done: re-nominate the person when your party is in the Oval Office.

Let us be clear. We are not talking about any particular problems with the nominees, including Judge Saad, who would be the first Arab-American on any Federal circuit court and who has been endorsed by both the Chamber of Commerce and the United Auto Workers. That is a pretty tall order.